

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF PUERTO RICO

3                   : \_\_\_\_\_ :

4                   THE UNITED STATES OF AMERICA,         :  
5    Plaintiff,         :  
6    :  
7    vs.                 : Case No: 12-CR-728 PG  
8    :  
9    :  
10   [1] BETSIAN CARRASQUILLO-PENALOZA,         :  
11    Defendant.         :  
12    :  
13    :

14    TRANSCRIPT OF SENTENCING HEARING  
15    HELD BEFORE THE HONORABLE JUAN M. PÉREZ-GIMÉNEZ  
16    JOSÉ V. TOLEDO U.S. COURTHOUSE, OLD SAN JUAN, PUERTO RICO  
17    FRIDAY, MAY 30, 2014, BEGINNING AT 12:21 P.M.  
18    :  
19    :

20    A P P E A R A N C E S:

21    For the United States of America:

22    Assistant U.S. Attorney Marshal D. Morgan

23    For the Defendant:

24    Assistant Federal Public Defender Joannie Plaza-Martinez

25    ALSO PRESENT:

26    Omar Flaquer-Mendoza, Courtroom Deputy Clerk

27    Edna Brayfield, Court Interpreter

28    Brenda Dávila, Probation Officer

## Sentencing Hearing - [1] Betsian Carrasquillo-Penaloza

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1 Sentencing Hearing - [1] Betsian Carrasquillo-Penaloza

2 THE COURTROOM DEPUTY: Criminal case 12-728.

3 United States of America versus Betsian

4 Carrasquillo-Penaloza. Case called for sentence. On

5 behalf of the government, Assistant U.S. Attorney

6 Marshal Morgan. On behalf of the defendant,

7 Assistant Federal Public Defender Joannie Plaza.

8 MS. PLAZA-MARTÍNEZ: Good afternoon, Your  
9 Honor.

10 THE COURTROOM DEPUTY: The defendant will be  
11 present -- and will be assisted by the official court  
12 interpreter.

13 MR. MORGAN: Good morning, Your Honor. The  
14 United States is ready to proceed.

15 MS. PLAZA-MARTÍNEZ: Your Honor, may I  
16 address the Court in housekeeping matters before my  
17 client comes in?

18 THE COURT: Sure.

19 MS. PLAZA-MARTÍNEZ: First, I would ask that  
20 the sentencing hearing be sealed, and that the public  
be excused from the courtroom.

21 THE COURT: Not during the sentencing  
22 hearing. During the showing of the video, yes; but  
23 during the sentencing hearing, no.

24 MS. PLAZA-MARTÍNEZ: Well, Your Honor, part  
25 of the allocution, I would say to the Court, includes

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1 information that it's not -- that should not be  
2 public record based on things that have been filed by  
3 the parties, which goes to mitigation. And it's  
4 inevitable that when we allocute the case it will  
5 divulge the relationship between the victim and my  
6 client, and that information should not be made  
7 public. And by having the public hearing it's  
8 inevitable.

9 MR. MORGAN: Your Honor, as part of the  
10 Department of Justice's regulation, I do need to  
11 oppose any request to seal the courtroom of these  
12 proceedings either during the allocution or during  
13 the showing of the video.

14 (Defendant enters the room.)

15 MR. MORGAN: I can advance to the Court that  
16 the video has all faces of agents and minors and  
17 other participants completely blocked out. The only  
18 individuals whose face is seen is that of the  
19 defendant. So, there wouldn't be any problem with  
20 respect to that. It's just the audio and big white  
21 circles in front of their faces; there's absolutely  
22 no way to identify who is being shown in the video so  
23 I would respectfully request that the Court  
24 reconsider any order to seal the courtroom even  
25 during the video.

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1                   And of course this is not a child  
2 pornography case; this is just the adults negotiating  
3 and the minor whose face is blocked out. There's no  
4 contraband associated with the videos -- with the  
5 video.

6                   THE COURT: I can advise counsel that I have  
7 read the report that was filed together with your  
8 motion to restrict from Dr. Margarida, I read it  
9 completely. I'm aware of the background of  
10 Ms. Carrasquillo. But if you want to elaborate on  
11 that.

12                  MS. PLAZA-MARTÍNEZ: Well, I think that  
13 because of the particular situation with the victim  
14 in this case I feel that it's only compelling for me  
15 to ask the Court to take these measures, but I will  
16 stand by the Court's ruling.

17                  And also, Your Honor, I understand the Court  
18 has already made a ruling but I filed a motion  
19 opposing the government's presentation of the video.  
20 And, as I stated in the motion, the government has  
21 not shown any valid reason to present when we have an  
22 agreement, and in this case the mandatory minimum is  
23 actually higher than the guideline range in the PSR.  
24 So, although I'm not -- I'm not saying that the  
25 government has specifically stated.

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2 It seems to appear that the presentation of  
3 the video will only come to aggravation of the crime.  
4 And I think that, if that would be the case, that  
5 would be a violation of our contract, and that's what  
6 I oppose the presentation of the video that will just  
7 show the evidence that was relayed in detail by the  
8 probation officer in four pages of the report.

9 My client accepted in the version of facts,  
10 it's been detailed in all the documents on the  
11 record; so, I think it's really unnecessary,  
12 cumulative, and will serve no purpose but to  
13 aggravate the circumstances of the offense.

14 MR. MORGAN: Your Honor, with respect to  
15 that, let the record be absolutely clear that our  
16 suggestion of showing this video is not in any way  
17 intended to suggest to the Court that it should  
18 consider a sentence higher than the ten years which  
19 is recommended by the parties. In fact, I  
20 respectfully suggest that the defense counsel's  
21 argument begins with the wrong premise.

22 Your Honor, we have so many cases here in  
23 Puerto Rico that we find ourselves oftentimes at  
24 sentencing simply staying quiet, not presenting any  
25 evidence, just relying on the arduous work of the  
probation officers. I suggest to the Court that the

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2 better practice -- and the rules actually provide for  
3 the United States substantiating the evidence that  
4 they have and the recommendation that they're making  
now.

5 In this particular case, the reason that I  
6 stand so firmly behind our recommendation of ten  
7 years and respectfully suggest that the Court follow  
8 that, notwithstanding the video -- notwithstanding  
9 what it shows in the video, because the guidelines do  
10 come out to less than the --

11 THE COURT: According to statute, the  
12 guideline is 120 months, the lower end of the  
13 guideline; because --

14 MR. MORGAN: That's the statute, yes.

15 THE COURT: Being a mandatory minimum  
16 sentence, then it becomes a guideline sentence. So,  
17 it is a guideline sentence. That's why in your  
18 recommendation it's stated that the parties agree to  
19 recommend a sentence at the lower end of the  
20 guidelines, which is the mandatory minimum becomes  
21 the lower end of the guidelines.

22 MR. MORGAN: Well, yes. And in this  
23 particular case if her criminal history were higher  
24 than --

25 THE COURT: Than three.

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1                   MR. MORGAN: -- than three then we would  
2 fall back on what the guidelines themselves.

3                   THE COURT: That's right.

4                   MR. MORGAN: To a certain extent it is  
5 semantics, but --

6                   THE COURT: It's a guideline application is  
7 what it is.

8                   MR. MORGAN: But just to make the record  
9 clear, I know that the Court has taken an interest in  
10 this case from the very beginning. Here in Puerto  
11 Rico this was one of the very first cases of human  
12 trafficking that we have prosecuted -- at least in  
13 the United States Attorneys' Office -- and it's a  
14 very important case to both the Court and to our  
15 office. And that's primarily the reason I was  
16 suggesting that we show the video.

17                  And, as I said, the video is redacted and  
18 doesn't show any identities of those involved other  
19 than that of the defendant.

20                  THE COURT: Also, the Court is interested in  
21 seeing the video because, although I highly respect  
22 Dr. Margarida Julia's qualifications and having read  
23 her psychodiagnostic evaluation of  
24 Ms. Carrasquillo -- which, by the way, was not  
25 reported to the probation officer that she was being

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1 evaluated by Ms. Carrasquillo [sic], known to the  
2 Court anyway, last night I received the report that  
3 was filed last night. It was filed yesterday, I read  
4 it last night. And I -- to satisfy myself that I  
5 understand completely what it said in the evaluation,  
6 I need to see the defendant, if there's evidence at  
7 the time when the actual crime was being committed,  
8 to sort of evaluate.

9                 Although I respect her knowledge so much,  
10 but I need to evaluate. I need to put a context as  
11 to what the crime is and the person,  
12 Ms. Carrasquillo. And I think that what you  
13 expressed, what's in the video, would help the Court  
14 in that sense; so, we will show the video.

15                 MS. PLAZA-MARTÍNEZ: We just want the record  
16 to reflect our objection. And also I understand the  
17 Court's position. And I thought -- by filing my  
18 reports I thought that that would be probably the  
19 Court's reaction and with the Court's interest. My  
20 objection is for the government to offer it into  
21 evidence when nobody requested it in the first place,  
22 because it gives the impression either for voration  
23 or for any other purpose besides the purpose that we  
24 have here today, Your Honor. But I stand by the  
25 Court's ruling.

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1 THE COURT: Well, the government also has a  
2 duty to the community to show a fact that is  
3 happening in Puerto Rico, to show that this does  
4 exist in Puerto Rico, to help parents understand that  
5 they have to a better job of parenting so as not to  
6 have their daughters fall into this type of crime or  
7 being abused, as the victims in this case were being  
8 abused; and to raise the conscious of the community,  
9 of the people, to combat, be able to combat this  
10 epidemic which is -- every day is growing bigger and  
11 bigger and it's covering more and more victims.

12 So, I think that the government does have  
13 that right and I'm going to grant it, that right --  
14 I'm going to grant that right.

15 MS. PLAZA-MARTÍNEZ: Then, Your Honor, may I  
16 then request that the government be allowed to  
17 present the video first, their allocution, and then I  
18 go last, if that's okay with the Court?

19 THE COURT: There's no problem with that.

20 MS. PLAZA-MARTÍNEZ: Thank you. May we sit  
21 on the table?

THE COURT: Yes, of course.

23 MR. MORGAN: Your Honor, I have for  
24 evidentiary purposes what's been marked as  
25 Government's ID No. 1. It's a disk containing the

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1 video. I have downloaded the video to my desktop  
2 because I tried to play it from the disk and it's too  
3 disjointed.

4 THE COURT: Counsel, counsel, forget about  
5 the technicalities issues. Just play the video.

6 MR. MORGAN: All right. I also have -- if I  
7 could admit this as 1A, the transcript and  
8 translation into English because the video is in  
9 Spanish.

THE COURT: All right. Please do.

PROBATION OFFICER: Before the video is played, may I approach, Your Honor.

13 MR. MORGAN: Transcript and translation.

14 (Off-the-record sidebar held.)

15 THE COURT: All right. Play the video.

16 MR. MORGAN: Okay. Your Honor, if it's okay  
17 with the Court, I was thinking about beginning to  
18 play this at least at minute 9 and 30 seconds. The  
19 reason --

20 THE COURT: Counsel, play the video,  
21 whichever way you want to play it, whichever way the  
22 government wishes to present its evidence.

23 MR. MORGAN: Okay, well, I'm telling you  
24 that I'm going to start it at 9:30 and that begins on  
25 page 14 of the transcript.

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2 THE COURT: Okay.

3 (Videotape is played.)

4 THE COURT: Counsel, approach the bench.

5 (Off-the-record sidebar held.)

6 THE COURT: All right. After having met  
7 with counsel here at sidebar, the Court understands  
8 that there's additional information that needs to be  
9 obtained, so that the sentence can be imposed.

10 Therefore, I grant defendant until June 13th to  
11 obtain that information for the Court. Once I  
12 receive it -- if I receive it sooner than that, then  
13 I'll reset the hearing for sentencing. So, we'll  
14 continue the sentencing hearing for a future date.

15 MR. MORGAN: Very well, Your Honor.

16 THE COURT: Thank you.

17 MS. PLAZA-MARTÍNEZ: Thank you. Permission  
18 to withdraw.

19 THE COURT: You may withdraw.

20 (Video CD was marked in evidence by the  
21 Courtroom Deputy as Government's Exhibit No. 1.)

22 (Transcript including translation of video  
23 was marked in evidence by the Courtroom Deputy as  
24 Government's Exhibit No. 1A.)

25 (Sentencing Hearing adjourned at 1:12 p.m.)

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2 UNITED STATES DISTRICT COURT )

3 OF ) ss.

4 PUERTO RICO )

5

6

7 CERTIFICATE

8

9

10 I, EVILYS E. CARRIÓN-ESQUILÍN, hereby  
11 certify that the proceedings and evidence are  
12 contained fully and accurately, to the best of my  
13 ability, in the notes recorded stenographically by  
14 me, at the sentencing hearing in the above matter;  
15 and that the foregoing is a true and accurate  
16 transcript of the same.

17

18

/s/ Evilys E. Carrión-Esquilín

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21

22

23

24

25

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